

Internal Revenue Service

Department of the Treasury

Date: MAR 07 1991

Key District:

Year(s):

and Subsequent

Person to Contact:

Contact Telephone Number:

Dear Sir or Madam:

We considered your appeal of the adverse action proposed by your key District Director. The paragraph(s) checked below indicate(s) our decision.

☒ Your exemption from Federal income tax under section 501(c)(4) of the Internal Revenue Code is:

- ☐ confirmed.
- ☐ modified. A new determination letter is enclosed.
- ☒ denied or ☐ revoked. You are required to file Federal income tax returns on Form 1120 for the above years. You should file these returns with your key District Director, EP/EO Division, within 30 days from the date of this letter, unless a request for extension of time is granted.
- ☐ You are not a private foundation because you are described in Code section(s) _____.
- ☐ You are an operating foundation as described in code section 4942(j)(3).
- ☐ You have no liability for excise taxes under IRC _____ for the above years.
- ☐ Your liability for excise taxes under IRC _____ for the above year(s) was properly reported on your return(s).
- ☐ There is no change to your unrelated business income tax liability as reported for the above years.
- ☐ Your Form(s) 990-T for the above years are accepted as filed.
- ☐

You may direct questions about the decision to the appeals officer whose name and telephone number are shown above.

Sincerely yours,

Appeals Officer

Internal Revenue Service

Department of the Treasury

District
Director

Person to Contact:

Telephone Number:

Employer Identification Number:

Date:

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

JAN 04 1990

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax as an organization described in section 501(c)(4) of the Internal Revenue Code. For the reasons stated below, we conclude that you do not qualify for exemption under this section.

You were incorporated on a non profit basis under laws of the State of [REDACTED] on [REDACTED]. Your purpose, as stated in your Articles of Incorporation, is to operate and manage [REDACTED]. Membership in the organization is determined by lot ownership in the Apartment development.

In your exemption application, documents and correspondence submitted during the application process, you indicated that your activities included or will include the maintenance of the driveway of the common area (driveways and garbage pad), to provide for adequate lighting of the apartment complex, to rent sufficient garbage receptacles to accomodate trash and garbage disposal and to provide liability coverage for the "common area". The only facilities you own are the driveways and garbage pads, which are open for anyone to use.

██████████ consist of █████ apartment buildings, █████ quadrplexes and █████ sixplexes of which there are █████ members in the Association. Your apartment complex is not a part of any other developed area. The only members of the association are the owners of the apartment buildings. The renting of the apartments by the landlords constitutes a trade or business and is not an exempt activity. Granting exemption would provide a benefit to the landlord members of the association for a service they must provide as a normal part of their business.

You receive income from membership dues in which funds are expended for garbage receptacle rental, area lighting, driveway maintenance and liability insurance for the 'common area'. In the event of dissolution of the organization, your Articles of Incorporation state that 'the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created'.

Section 501(c)(4) of the Code exempts from Federal income tax civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community.

Revenue Ruling 72-102, 1972-1 C.B. 149, describes a 'homeowners' association ruled to be exempt under Code section 501(c)(4).

Revenue Ruling 74-99, 1974 C.B. 131, which clarifies Revenue Ruling 72-102, provides that for a homeowners association to qualify for exemption under Code section 501(c)(4), it must, among other criteria: (1) serve a 'community' which bears a reasonable recognizable relationship to an area ordinarily identified as governmental; (2) it must not conduct activities directed to the exterior maintenance of private residences; and (3) the common areas or facilities it owns and maintains must be for the enjoyment of the general public (persons other than members and their guests).

[REDACTED]

Based on the information provided with your application, we conclude that the development represented by your organization is not a "community" within the meaning of section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations, in that [REDACTED]

[REDACTED] does not bear a reasonably recognizable relationship to a governmental subdivision or unit thereof. Further, we conclude that your activities do not serve to provide any significant benefit to the residents of the larger community which surrounds your area. Although access to your driveways are not physically barred to non-residents, your complex does not contain any public parklands, recreational facilities, or similar inducements for public use. The public benefit provided by your organization is insubstantial compared with the private benefit accorded to your members.

Accordingly, based on all the facts and circumstances, we conclude that you do not qualify for recognition of exemption from Federal income tax under section 501(c)(4). You are therefore required to file Federal income tax returns.

If you do not agree with our proposed adverse ruling we recommend that you request a conference with a member of the Regional Director of Appeals Staff. Your request for a conference should include a written appeal signed by an authorized officer giving the facts, law and any other pertinent information to support your position as explained in the enclosed Publication 892. If you are to be represented by someone who is not one of your authorized officers, he/she will need to file a power of attorney or tax information authorization and be qualified to practice before the Internal Revenue Service as provided in Treasury Department Circular No. 230. The conference may be held at the Regional Office or, if you request, at any mutually convenient District office.

If we have not received an appeal within 30 days, this will become our final determination letter. Your failure to exercise your appeal rights will be considered by the Internal Revenue Service as a failure to exhaust your available administrative remedies.

Sincerely yours,

[REDACTED]

[REDACTED]

District Director

Enclosure: Publication 892